

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION**

In re: John Paul Erwin
Deborah Marie Erwin
Debtors

Case No. 13-50154-SCS
Chapter 13

MOTION FOR SANCTIONS

NOW COMES Michael P. Cotter, the Chapter 13 Trustee (“Trustee”) and files this Motion for Sanctions (“Motion”) and requests that this Court assess sanctions against Rebecca C. Lawrence, counsel for the Debtors herein. In support of this Motion, the Trustee states as follows:

- 1) The Debtors filed their chapter 13 bankruptcy case on February 6, 2013.
- 2) Via Order entered on May 16, 2013, the Debtors’ chapter 13 Plan was confirmed by this Court. On June 17, 2013, this Court entered an Amended Order Confirming Plan.
- 3) On June 12, 2017, the Debtors filed a Modified Plan, and subsequently, the Debtors filed another Modified Plan on July 7, 2017. The basis for the filing was to pay certain post-petition mortgage arrears in order for the Debtors to obtain a discharge.
- 4) The Trustee, following up on certain information provided to him, learned that the Modified Plan dated June 12, 2017, was not signed by the Debtors prior to the filing of such Modified Plan. Additionally, the Trustee learned that the Debtors did not review (and presumably did not authorize the filing of) the Modified Plan prior to it being filed with the Court.
- 5) Debtors’ counsel has not complied with the rules of this Court, in particular this Court’s CM/ECF’s (Case Management/Electronic Case Files) Policies. Those policies provide that all documents which must contain original signatures may be filed electronically in the form “/s/” and that the document containing the original signatures must be maintained by the ECF use until three years after the closing of the case.
- 6) Ms. Rebecca Lawrence, Debtors’ counsel, plainly did not comply with such Policy. The filing of the Modified Plan containing the “/s/” followed by the Debtors’ names, constitutes the electronic signatures of the Debtors despite counsel’s failure to obtain and maintain their original signatures.
- 7) Ms. Lawrence’s failure to obtain the original signatures of her clients on the above-referenced Modified Plan and, upon information and belief, her failure to have the pleading reviewed by her clients before it was filed constitute serious violations of this Court’s rules

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Chapter 13 Standing Trustee
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and policies as well as counsel's obligations pursuant to the Virginia Rules of Professional Conduct. See Virginia Rule of Professional Conduct 1.4(a) which provides that "[a] lawyer shall keep a client reasonably informed about the status of a matter..."

- 8) The Trustee acknowledges that Ms. Lawrence, upon having this matter brought to her attention, has been entirely cooperative and responsive to the Trustee. Additionally, it appears that Ms. Lawrence is genuinely remorseful relative to her mistake.
- 9) Nonetheless, the Trustee submits that the violation is a serious one and one which merits appropriate sanctions.
- 10) By way of sanctions, the Trustee recommends that: (1) Ms. Lawrence be required to take additional ECF training in accordance with the procedures established by the Office of the Clerk of Court; (2) Ms. Lawrence be fined in the amount of one thousand dollars (\$1,000.00) and that such funds be remitted to the Debtors. ; and (3) that Ms. Lawrence's privileges to appear before this Court be suspended for such period of time that this Court deems appropriate.

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Honorable Court consider the foregoing and make such ruling and impose such sanction as this Honorable Court shall deem appropriate and for all such other and further relief as is necessary in these circumstances.

Respectfully Submitted,

/s/ Michael P. Cotter, Esq.
Michael P. Cotter
Chapter 13 Standing Trustee

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CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of July 2017 a true and correct copy of the foregoing Motion, via regular U. S. Mail, postage prepaid, was forwarded to the following: John and Deborah Erwin 111 Oak Ridge Ct, Williamsburg VA 23188; Rebecca Lawrence, Esq. 11848 Rock Landing Dr., Ste. 103 Newport News VA 23606; and Ken Whitehurst, Esq., Assistant U. S. Trustee, Office of the United States Trustee, Federal Bldg. Room # 625, 200 Granby Street, Norfolk, VA 23510.

/s/ Michael P. Cotter, Esq.
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Chapter 13 Standing Trustee

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NOTICE OF MOTION FOR SANCATIONS

Michael P. Cotter, Chapter 13 Standing Trustee, has filed a Motion for Sanctions against Rebecca Lawrence, Esq.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one, in this bankruptcy case. (If you do not have an attorney, you may wish to consult one).

If you do not want the court to grant the relief sought in this motion, or if you want the court to consider your views on the motion, then you and/or your attorney must attend a hearing to be scheduled at a later date. You will receive a separate notice of hearing. If no timely response has been filed opposing the relief requested, the court may grant the relief without holding a hearing.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the objection and may enter an order granting that relief.

/s/ Michael P. Cotter, Esq.
Michael P. Cotter
Chapter 13 Standing Trustee

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Newport News VA 23606

Ken Whitehurst, Esq., Assistant U. S. Trustee
Office of the United States Trustee
Federal Bldg. Room # 625
200 Granby Street
Norfolk, VA 23510

/s/ Michael P. Cotter, Esq.
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